

Prior to the shootings on November 9, the Fontaine Bleau had not triggered the requirements of the City's TPM ordinance. (Marchetti Depo., 80:17-81:20.) The shootings and homicide, however, did trigger the ordinance, and the City's LLT voted to pursue a TPM violation concurrently with the City's request to the OLCC for the emergency suspension. The City never issued the TPM violation to DeWalt because the Fontaine Bleau never reopened. (City 30(b)(6) Depo., 122:18-124:6.) The City pursued this concurrent action because it was unsure whether the OLCC would act on its request for the suspension, and therefore, wanted to have the TPM violation ready in the event the OLCC allowed the Fontaine Bleau to reopen with no restrictions and no change to its operations. (City 30(b)(6) Depo., 124:17-125:9.) Also, the TPM ordinance allowed 10 days for a licensee to respond to the City's Notice of Violation, and then required additional time to reach any sort of abatement agreement with the licensee. Given the concern that DeWalt would reopen the Fontaine Bleau after the shooting, the City, through Marchetti and the LLT, determined it was not in the best interest of public safety to use the TPM process. (City 30(b)(6) Depo., 124:17-125:24.) The City viewed the TPM process as inadequate to address the situation at the Fontaine Bleau because Marchetti had no faith DeWalt would work collaboratively to make the process work. (City 30(b)(6) Depo., 125:25-126:18.)

During the City's 30(b)(6) deposition conducted by plaintiffs, City representative Theresa Marchetti testified about several clubs where shootings occurred and ONI did not pursue a request for immediate suspension from OLCC afterwards. For each club that plaintiffs asked about, Ms. Marchetti identified ONI's reason for not pursuing an immediate suspension. Her responses are summarized in the table below:

<b>Club</b>	<b>Shooting Date</b>	<b>ONI Reason for not Pursuing Suspension</b>	<b>30(b)(6) Cite</b>
720 Club	4/17/2009	Not connected to patrons or service of alcohol	51:12-52:25

Good Call Sports Bar	10/23/2010	Not aware of shooting within 24 hours	54:25-55:24
JD'S Bar and Grill	1/24/2011	Not aware of shooting within 24 hours	55:25-57:8
New Copper Penny	2/12/2012	Not aware of shooting within 24 hours; No history of problem solving efforts; ONI pursued TPM violation	58:15-60:15
Grand Central Restaurant	2/19/2012	Not aware of shooting within 24 hours	61:19-62:17
Mystic Club	7/18/2012	Not connected to patrons or service of alcohol	62:18-63:24
Club Skinn	5/8/2013	Not connected to patrons or service of alcohol	65:22-66:19
Mystic Club	1/11/2014	Not connected to patrons or service of alcohol	67:15-69:17
New Copper Penny	3/26/2014	Not connected to patrons or service of alcohol; Club cooperated with ONI to problem solve	69:18-71:16
Magoo's Bar and Grill	4/26/2014	Not aware of shooting within 24 hours; ONI pursued TPM Violation	72:6-74:12
East China Lounge	6/8/2014	Not aware of shooting within 24 hours; ONI pursued TPM Violation	74:13-77:4
Soobies Bar and Grill	7/5/2014	License already cancelled	77:18-78:13
Shady Lady Tavern	8/10/2014	Not aware of shooting within 24 hours; No history of problem solving efforts; ONI pursued TPM Violation	78:14-79:14
Boss Hawg's Bar and Grill	2/2/2015	Not aware of shooting within 24 hours; No history of problem solving efforts; ONI pursued TPM Violation	92:23-93:12
Shimmers	2/24/2015	Not aware of shooting within 24 hours; ONI pursued TPM violation	79:15-80:17; 89:16-24; 91:24-92:22
Hourglass Club	10/3/2015	No history of problem solving efforts; ONI pursued TPM violation	93:13-94:24
Pallas Club	10/23/2015	Not aware of shooting within 24 hours; No history of problem solving efforts; ONI pursued TPM Violation	99:13-100:14
Heat Gentlemen's Club	11/13/2015	Not serious enough to warrant immediate suspension; ONI pursued TPM violation	107:2-24

Triple Nickel	8/4/2016	Not serious enough to warrant immediate suspension; Not connected to patrons or service of alcohol; ONI pursued TPM violation	107:25-109:18
Lucky Corner Bar & Grill	9/5/2016	Not aware of shooting within 24 hours; Not connected to patrons or service of alcohol	110:12-111:15
Maddy's	9/23/2016	Not connected to patrons or service of alcohol	111:16-113:15
Roseland Theater	10/6/2016	Not aware of shooting within 24 hours	113:16-114:8
Club Playpen	10/20/2016	Not connected to patrons or service of alcohol	135:19-138:1
Club SinRock	1/26/2017	Not serious enough to warrant immediate suspension;	138:2-20
Crystal Ballroom	8/12/2017	Not aware of shooting within 24 hours; No history of problem solving efforts	138:21-139:15

There is no racial component to the City's response to shootings at nightclubs; rather, the availability of information and the facts underlying each shooting inform the City's response. There is no evidence that the City had a policy of treating specific clubs differently based on racial animus after a shooting occurred. None is apparent from any of the depositions plaintiffs conducted or the evidence plaintiffs possess. Moreover, plaintiffs did not ask during the 30(b)(6) deposition whether the City knew that any of the clubs plaintiffs referenced were black-owned, catered to a black clientele, or primarily played hip hop music. Plaintiffs therefore cannot argue that the City's responses to shootings, whether by pursuit of emergency suspension or by pursuit of a TPM violation, were motivated by racial animus.

Furthermore, these clubs are a tiny sample of all of the establishments that hold liquor licenses in the City of Portland. In 2013, there were about 3,000 liquor licensees within the administrative purview of ONI's liquor license team. (City 30(b)(6) Depo., 171:8-17.) Plaintiffs cannot show that ONI's actions towards the liquor licensees within its administrative purview is skewed or unbalanced due to racial animus.